

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY R. ENGLISH,

Plaintiff,

v.

CLARK COUNTY JAIL, GARRY LUCAS,
and JACKIE BATTIES,

Defendants.

CASE NO. C14-5328 RBL-JRC

ORDER THAT PLAINTIFF FILE AN
AMENDED COMPLAINT

This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b) (1) (A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

Plaintiff names the Clark County Jail and certain supervisory persons in the jail for alleged deliberate indifference to his medical needs (Dkt. 1, proposed complaint). The Court finds a number of defects in plaintiff's original complaint.

A county jail is not an entity that can be sued in a civil rights action. 42 U.S.C. § 1983 allows for suit against a person acting under the color of state law who deprives someone of rights, privileges or immunities secured by the constitution or laws of the United States. *Parratt*

1 *v. Taylor*, 451 U.S. 527, 535, (1981) (overruled in part on other grounds); *Daniels v. Williams*,
2 474 U.S. 327, 330-31, (1986).

3 42 U.S.C. § 1983 applies to actions of “persons” acting under color of state law. The
4 language of §1983 is expansive and does not expressly incorporate common law immunities.
5 *Owen v. City of Independence, Mo*, 445 U.S. 622, 627 (1980). Municipalities are subject to suit
6 under § 1983. *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 690 (1978).
7 However, “[i]n order to bring an appropriate action challenging the actions, policies or customs
8 of a local governmental unit, a plaintiff must name the county or city itself as a party to the
9 action, and not the particular municipal department or facility where the alleged violation
10 occurred. *See Nolan v. Snohomish County*, 59 Wash. App. 876, 883, 802 P.2d 792, 796 (1990).”
11 *Bradford v. City of Seattle*, 557 F. Supp.2d 1189, 1207 (W.D. Wash. 2008)(holding that the
12 Seattle Police Department is not a legal entity capable of being sued under § 1983).

13 The proper defendant would be Clark County, not the Clark County Jail. Further,
14 plaintiff’s proposed complaint is devoid of facts showing how the named defendants
15 acted. While plaintiff makes allegations concerning his medical care he does not state
16 that either named person, Garry Lucas or Jackie Batties provides or provided medical
17 care to him.

18 A defendant cannot be held liable under 42 U.S.C. § 1983 solely on the basis of a
19 supervisory responsibility or position. *Monell v. New York City Dept. of Social Services*, 436
20 U.S. 658, 694 n.58 (1978). Thus, the theory of *respondeat superior* is not sufficient to state a
21 claim under 42 U.S.C. § 1983. *Padway v. Palches*, 665 F.2d 965, 968 (9th Cir. 1982).

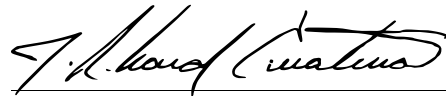
22 Personal participation is connected to causation. The inquiry into causation must be
23 individualized and focus on the duties and responsibilities of each individual defendant whose
24

1 acts and omissions are alleged to have caused a constitutional violation. *Leer v. Murphy*, 844
2 F.2d 628, 633 (9th Cir. 1988).

3 Plaintiff must allege facts showing how each defendant caused or personally participated
4 in causing the harm alleged in the complaint. *Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir.
5 1981). A 42 U.S.C. § 1983 suit cannot be based on vicarious liability alone, but must allege that
6 defendant's own conduct violated plaintiff's civil rights. *City of Canton v. Harris*, 489 U.S. 378,
7 385-90 (1989).

8 The Court orders that plaintiff file an amended complaint curing the defects in his
9 filing. Plaintiff's amended complaint will act as a complete substitute for the original and
10 not as a supplement. Plaintiff must file his amended complaint on or before June 6, 2014,
11 or the Court will recommend dismissal of this action for failure to comply with a Court
12 order and failure to prosecute.

13 Dated this 2nd day of May, 2014.

14 

15 J. Richard Creatura
16 United States Magistrate Judge